

**Operating Engineers Local 478, International Union of Operating Engineers, AFL-CIO (Stone & Webster Engineering Corporation) and Ralph J. Gigliotti. Case 39-CB-391**

31 August 1984

**DECISION AND ORDER**

**BY MEMBERS ZIMMERMAN, HUNTER, AND DENNIS**

On 18 January 1984 Administrative Law Judge James F. Morton issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel filed a brief in answer to the Respondent's exceptions.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,<sup>1</sup> and conclusions<sup>2</sup> and to adopt the recommended Order.

**ORDER**

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Operating Engineers Local 478, International Union of Operating Engineers, AFL-CIO, Hamden, Connecticut, its officers, agents, and representatives, shall take the action set forth in the Order.

<sup>1</sup> The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), *enfd.* 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

<sup>2</sup> As noted by the judge, the Board has long held that, when a union causes the discharge of an employee or prevents him from being hired, there is a rebuttable presumption that the union acted unlawfully because by such conduct a union demonstrates its power to affect the employees' livelihood in so dramatic a way as to encourage union membership among the employees. *Boilermakers Local 40 (Envirotech Corp.)*, 266 NLRB 432 (1983). Thus, to establish his prima facie case, the General Counsel here needed only to show that the Respondent caused the discriminatee, Ralph J. Gigliotti, to be removed from his higher paying position of diesel pump operator and transferred to the maintenance operator position, resulting in a substantial decrease in earnings. This he did. The judge found, and we agree, that the Respondent failed to rebut the General Counsel's prima facie case and that, in fact, the evidence indicates that the Respondent's unlawful conduct was motivated by Gigliotti's opposition to the reelection of Elwood Metz Jr. as the Respondent's business manager.

**DECISION**

**STATEMENT OF THE CASE**

JAMES F. MORTON, Administrative Law Judge. On March 18, 1983, the General Counsel of the National 271 NLRB No. 215

Labor Relations Board issued a complaint against Operating Engineers Local 478, International Union of Operating Engineers, AFL-CIO (Respondent) alleging that it had violated Section 8(b)(2) of the National Labor Relations Act (the Act). In particular, the complaint alleges that Respondent had, on August 31, 1982, attempted to cause Stone and Webster Engineering Corporation (S & W) to discharge the Charging Party, Ralph J. Gigliotti, and that it did succeed in causing S & W to transfer Gigliotti to a job with less overtime and consequently lower pay; Respondent is alleged to have engaged in those activities because Gigliotti had opposed the reelection of Respondent's business manager, Elwood (L. Sonny) Metz, Jr. Respondent filed an answer denying the alleged unlawful acts.

The hearing was held before me in Hartford, Connecticut, on September 12 and 13, 1983.

On the entire record, including my observation of the demeanor of the witnesses and after due consideration of the briefs filed by the General Counsel and by Respondent, I make the following

**FINDINGS OF FACT**

**I. JURISDICTION**

The pleadings establish, and I thus find, that S & W, a Massachusetts corporation, is a general contractor in the building and construction industry. Its operations meet the Board's jurisdictional standard for nonretail concerns.

**II. RESPONDENT'S STATUS**

The pleadings also establish, and I therefore find, that Respondent is a labor organization as defined in Section 2(5) of the Act.

**III. THE ALLEGED UNFAIR LABOR PRACTICES**

**A. Background**

S & W has been the general contractor responsible for the construction of a nuclear power station, known as Millstone Unit III, being built in Waterford, Connecticut. Construction began in the third quarter of 1974 and is scheduled to be completed in May 1986. Employment on that project reached a peak in November 1982 of about 3600 employees. Of that number, about 185 were represented by Respondent, 110 of those were operating engineers, and the remaining 75 were surveyors. In the late summer of 1982, the time period of the alleged violations in the instant case, Respondent represented about 130 employees on that construction site. The alleged unlawful acts of Respondent pertained to S & W's transfer of Ralph Gigliotti from operating a backup diesel pump to work as a maintenance mechanic on September 1, 1982. To put that matter in perspective, it will be helpful to review briefly how Gigliotti was originally assigned to the diesel pump. In 1979, S & W installed what it termed a well point system inside a cofferdam at Millstone Unit III. By doing so, S & W ensured that any excess water, which might leak into that dam, would be collected in seven individual wells and then would be pumped out into the ocean. S & W assigned four employees per shift

to the pumps used in that operation. Each shift lasted 6 hours. The pumps were manned on a 24-hour day, 7-day-a-week basis. On August 9, 1981, the well point system was discontinued by S & W. The employees who had worked on that system were all laid off. An electrically powered pump was installed in place of the well point system. S & W also devised a floating diesel pump which could be started by an operating engineer should the electrically powered pump not function during a power outage or the like. About mid-August 1981, S & W assigned operating engineer Liberato (Hank) Della Vecchia to service the backup diesel pump. He began work the second shift at 4:30 p.m. and worked until 2:30 a.m. the following day, 7 days a week. Della Vecchia retired in September 1981. The Charging Party in the instant case, Ralph Gigliotti, was then assigned by S & W's master mechanic, Carl Mattocks, to take over the job from Della Vecchia. Gigliotti continued to work as the operator of that diesel pump on a 10-hour day, 7-day-a-week basis until he was relieved of that assignment on August 31, 1982, under the circumstances discussed in detail below.

#### *B. Gigliotti's Union Activities*

Gigliotti has been a member of Respondent for 14 years. For 8 years prior to an election of Respondent's officers held in 1983, he had been sergeant-at-arms, having always run on an unopposed slate of candidates headed by Respondent's business manager, Sonny Metz.

Notwithstanding his position as Respondent's sergeant-at-arms and the lucrative job assignment he had at the Millstone Unit III project, Gigliotti prepared and distributed an anonymous letter in December 1981. That letter contained criticisms of Respondent's Business Manager Metz for alleged misuse of funds and for allegedly engaging in nepotism. The letter contained other complaints regarding Metz' management of Respondent's affairs. That anonymous letter was discussed at a membership meeting held by Respondent in 1981. Metz read the letter at that meeting, made unsavory remarks as to its anonymous character, and proclaimed that he wanted the author of that letter to run against him in the next election.

In June 1982, Gigliotti and another member of Respondent, master mechanic Carl Mattocks, discussed between themselves the advisability of forming a slate of candidates to oppose Metz at the next union election. In the ensuing months, July and early August, they discussed that matter with one of Respondent's agents, James McParland, and offered to finance his candidacy. They abandoned their interest in McParland when he indicated that, if he were to run to oppose Metz, he would not displace any of Respondent's business agents.

According to Gigliotti, he telephoned another of Respondent's business agents, Frank Luciani, in August 1982 and asked if he would oppose Metz in the next election. Gigliotti gave the following account of the discussion that ensued. Luciani said that Metz had learned from an ex-FBI agent named Walter Smith that it was Gigliotti who had written the anonymous letter criticizing Metz which was distributed at the last Christmas party. Luciani told Gigliotti, in somewhat indelicate

terms, that Metz was out to get him, Gigliotti. Luciani then related that a cartoon was being drawn up at the union office which depicted Gigliotti and Mattocks as "the gruesome twosome" and which designated Mattocks as "the banker."

Luciani testified for Respondent that Gigliotti asked him in December 1982, not in August, to run against Metz.

I credit Gigliotti's account, as it was detailed, as a cartoon later appeared as described by Luciani in that discussion and as Luciani, in his testimony, acknowledged that he did discuss that cartoon with Gigliotti but was overall uncertain as to when that discussion took place.

Carl Mattocks testified for the General Counsel that Luciani telephoned him in August 1982 and after making a reference to the cartoon described above, told Mattocks, "Sonny says we are running one slate down here."

Luciani testified but did not refer to Mattocks' account of their discussion in August. Luciani acknowledged that one of his functions as business representative is to make telephone calls at Metz' behest. I credit Mattocks' account.

#### *C. The Events of August 31*

Mattocks also testified for the General Counsel that he received a telephone call about 9 a.m. on August 31, 1982, from Luciani. According to Mattocks, Luciani told him that "Sonny wants to talk to you." At that point, according to Mattocks, Metz got on the phone and told him that he, Mattocks, has "a guy up on that job—Gigliotti—that is making more money than you or me." Mattocks testified that Metz told him to report to the union hall on the following morning. About 11:30 a.m. on August 31, according to Mattocks, Luciani called again and told him that "[Respondent] does not recognize you as the master mechanic on the job and that you can cancel that appointment for tomorrow." Mattocks further testified that later that day he was informed by his supervisor, David Hovey, that S & W had received a telegram from Respondent stating that it did not recognize Mattocks as master mechanic and that it referred to alleged "improprieties." Hovey then directed Mattocks to reassign Gigliotti from his job as pump operator of the standby diesel pump. Mattocks thereupon removed Gigliotti from the diesel pump assignment and placed him in the position as a maintenance operator. In that position, Gigliotti earned \$2 an hour more than he had earned as a pump operator but, because he worked considerably fewer hours per week, his overall earnings were appreciably less than they had been when he was the operator of the diesel pump.

The accounts of Hovey, Metz, and Luciani corroborate much of the foregoing testimony of Mattocks. Thus, while Luciani does not specifically recall his telephoning Mattocks on August 31, Luciani did testify that it is part of his job function to place calls for Respondent's business manager, Metz. Similarly, Metz testified that he spoke with Mattocks in late August. Hovey testified that he received a call on August 31 from Metz in which Metz told him that "a pump man is working excessive

hours." Hovey stated that Metz characterized that as "possibly a contractual violation."

Luciani, in testifying for Respondent, did not deny that he telephoned Mattocks on August 31. On cross-examination, Luciani acknowledged that Metz had told him to place a phone call to Mattocks and he did so. He testified further that he did not recall telling Mattocks later that day in a telephone conversation that he was no longer recognized as the master mechanic on that job but conceded that his memory could be faulty.

Metz testified that he had telephoned Mattocks at the end of August 1982 and that, about that time, he also had told Hovey that there was a pump man on the job who was working excessive hours and that "there was a contract violation." Metz testified that a typewritten log prepared by his secretary summarizes relevant events that took place on August 31. That log discloses that he telephoned the president of S & W at his office in Boston, Massachusetts, but does not disclose the contents of that telephone conversation. Metz' testimony at the hearing essentially was that he had no clear recollection of the substance of that discussion.

The log further discloses that, on August 31, Metz sent a telegram to S & W's president and to its resident manager at Millstone Unit III and that a copy of the telegram was sent to master mechanic Carl Mattocks. The telegram read as follows:

Local 478 does not recognize as of this date Carl Mattocks as the master mechanic at the Millstone Nuclear Power Station Unit No. 3 Waterford, Connecticut. There is an investigation taking place into violations of our contractual agreement between Stone and Webster and Local Union 478 operating engineers. We have reason to believe that individuals entered into agreements that personally have benefited themselves which is a violation of the agreement that Stone and Webster has with Local Union 478.

Metz in his testimony stated that he assumed that Gigliotti was one of the individuals referred to in that telegram who entered into agreements which personally benefited themselves.

Metz further testified that he does not normally get involved in matters involving alleged contractual violations as those matters are routinely handled by business agents assigned to the particular jobsites. He explained that he took the action reflected above on August 31, based on information given by his secretary, as discussed next. According to Metz, he had asked his secretary to schedule a meeting of Respondent's executive board. He testified further that his secretary, on some indefinite date, informed him that she had endeavored to reach Gigliotti to give him that message so that he could attend as the sergeant-at-arms and that Gigliotti could not attend because of his working hours. Metz' testimony was that this report by his secretary made him realize that S & W had violated its contract and that prompted him to (a) place a telephone call to the president of S & W at his Boston, Massachusetts office, (b) call Mattocks and Hovey, and (c) send out the telegram set out above.

Metz denied that he knew then that Gigliotti or Mattocks had been interested in fielding a slate of candidates to oppose him for reelection as business manager.

The log prepared by Metz' secretary contains no notation that she had tried to reach Gigliotti with respect to informing him of an executive board meeting or that she reported to Metz that Gigliotti could not attend because of his work hours. Respondent did not call Metz' secretary to corroborate Metz' account.

#### *D. Subsequent Events*

On September 1, 1982, Metz prepared and sent to the president of S & W a registered letter which stated that it had been brought to Metz' attention on the preceding day that a special shift had been in operation for approximately the previous 3 months without the knowledge or consent of Respondent. The reference was to the hours that Gigliotti had worked. The letter noted that that shift violated article I, section 4 of Respondent's contract with S & W. That section provides that S & W agrees not to enter into any individual contracts with its employees. Metz in his letter characterized that shift as a "flagrant violation of our contract." He also stated therein that he "will never understand how an individual could ever make an agreement to further his own financial gain" in light of the lack of work among Respondent's members.

S & W did not hire any replacement for Gigliotti to operate the standby diesel pump but, as noted above, assigned those duties to another operating engineer on the second shift to be performed in conjunction with his regular duties.<sup>1</sup> Metz testified that he assigned two business agents to go to Millstone Unit III and that he was satisfied with their report respecting the way S & W elected to have the standby pump manned.

The particular phase of construction work requiring the use of the standby diesel pump ended in May 1983. The parties stipulated that Gigliotti's assignment as operator of the standby diesel pump would have lasted at most until May 1983.

#### *E. Analysis*

At the outset, Respondent contends that Metz' telephone calls on August 31 and his telegram of that date were not aimed at having Gigliotti removed from his position as operator of the backup diesel pump, but rather were aimed at having his work hours spread among four operating engineers, particularly as a number of Respondent's members were out of work. I take that contention initially as an assertion by Respondent that it did not cause or attempt to cause S & W to relieve Gigliotti of his duties as diesel pump operator. For the reasons noted below, I find no merit in that contention. There is no evidence whatsoever that Respondent had on or

<sup>1</sup> That operator however, worked the normal 8-hour shift, 5 days a week. As a consequence, the standby diesel pump was unattended from midnight to 8 a.m. each weekday and all day Saturday and Sunday. Apparently S & W elected to take the risk, in the event of a power outage due to a storm, that the area would not be flooded during the hours when the diesel pump was unattended. Prior to the installation of the backup pump, the area had been twice flooded during outages.

about August 31, 1982 asked S & W to employ out of work operating engineers to share Gigliotti's work hours. Respondent never filed any grievance to obtain any monetary remedy respecting the alleged contract violation; the evidence clearly establishes that Respondent was entirely satisfied with the fact that S & W immediately removed Gigliotti from his assignment as pump operator. Metz' letter of September 1 reflected a clear animus toward Gigliotti as Metz wrote that he "will never understand how an individual could ever make an agreement to further his own financial gains" in the light of the serious unemployment picture in the area. Were Metz so concerned over the lack of work for Respondent's members, he would have made some effort to spread the work hours on the diesel pump among several operators instead of simply being satisfied with the report that Gigliotti had been transferred to another job.

The Board has held that a labor organization can attempt to cause unlawful discrimination where the totality of its conduct evidences that it is requesting such action and notwithstanding the fact that it did not make an express unequivocal demand for such action.<sup>2</sup>

The Board has further held that, where a labor organization prevents an employee from being hired or causes his discharge and thus has so demonstrated its power to affect one's livelihood, the Board will infer that the effect of that action is to encourage union membership on the part of all employees who have perceived that exercise of power.<sup>3</sup> The Board in that case further stated that that inference may be overcome by the labor organization in showing that its action was necessary to the effective performance of its functions of representing its constituency.

The loss of work resulting from the removal of an employee from a lucrative job assignment at the request of a labor organization demonstrates its power to effect his livelihood just as effectively as a request that leads to an employee being discharged or not hired.<sup>4</sup> The burden was upon Respondent to demonstrate that its actions vis-a-vis Gigliotti on August 31, 1982, were necessary to the effective performance of its function of representing its constituency. There is nothing in the record before me to suggest that Respondent was engaged in such an effort other than its bare assertion that it was; its efforts appeared instead to be aimed solely at Gigliotti.

I thus conclude that, as Respondent has failed to rebut the inference that its actions vis-a-vis Gigliotti on August 31 unlawfully encourage union membership, it violated Section 8(b)(2) of the Act.

Respondent has indicated that Metz could not have been motivated by the efforts of Gigliotti and Mattocks to displace him as a business manager as the General Counsel has not offered any direct evidence that Metz was aware on August 31, 1982, of Gigliotti's efforts toward promoting a campaign against Metz' leadership. In the light of my holding above that Respondent had

the burden of coming forward with evidence to rebut the unlawful inference raised by its acts vis-a-vis Gigliotti, it is clear that this contention has no legal merit. In any event, I reject the assertion by Respondent that the General Counsel has failed to show that Metz was aware of Gigliotti's activities as of August 31, 1982, insofar as they pertained to Gigliotti's efforts to mount a slate to oppose Metz. In that regard, I note that Respondent's business agent, Frank Luciani, testified that in that post he often transmits messages at Metz' request and that Mattocks testified without contradiction that, in mid-August, Luciani called him in reference to the cartoon depicting Mattocks and Gigliotti as the "gruesome two-some" and informed him that Metz wanted him to know, if "we are running one slate."<sup>5</sup> Moreover, the clearly pretextual basis asserted by Metz for having Gigliotti removed as diesel-pump operator supports the clear inference that Metz was aware of the union activities of Gigliotti and Mattocks. That Metz' reason is a pretext is apparent from the following considerations. First, Gigliotti had been operating the diesel backup pump for a whole year as of August 31, 1982, and not for simply 3 months, as alluded to in Metz' letter of September 1, 1982. Secondly, although Metz testified that he does not handle job-assignment problems, he took the initiative and then some, to have Gigliotti removed from the diesel-pump assignment. Thus, he telephoned S & W's president in Boston, sent telegrams giving notice that Respondent would no longer recognize Mattocks as master mechanic and so on, all purportedly because his secretary had at the time mentioned to him that Gigliotti could not make an executive board meeting because he was working. I note too that Gigliotti's attendance, as sergeant-at-arms, was apparently not needed at such a meeting. Further, Metz' secretary was not called to corroborate his account. I simply do not accept Metz' testimony that he acted on the basis of information furnished by his secretary. Lastly, the pretextual nature of Respondent's contention is also evident from Metz' assertion that he sent the August 31 telegrams in furtherance of an effort by Respondent to obtain employment for out-of-work operating engineers and from the undisputed fact that Metz never asserted such a demand in the telegram, in his telephone discussions, or in any grievance that Respondent could have filed. Rather, Metz concluded that "everything was fine" when he learned that Gigliotti had been removed from the diesel-pump assignment. The Board has held that unlawful motivation may properly be inferred from the clearly pretextual nature of reasons given by a Respondent in its efforts to justify its actions.<sup>6</sup> The credited evidence, in any event, discloses that Metz was out "to get" Gigliotti and that he did so because he wanted only "one slate."

I find that Respondent, through the conduct of its business manager Metz, on August 31, 1982, attempted to cause and did cause S & W to remove its employee Ralph Gigliotti from his job as pump operator on the backup diesel pump without sufficient reason and sepa-

<sup>2</sup> See *Electrical Workers IBEW Local 262 (Paul Electrical)*, 264 NLRB 251 (1982); *Painters Local 162 (Johnson's Plastering Co.)*, 233 NLRB 820, 821 (1977).

<sup>3</sup> *Boilermakers Local 40 (Envirotech Corp.)*, 266 NLRB 432 (1983).

<sup>4</sup> Cf. *Printing Pressmen Local 284 (Las Vegas Sun)*, 230 NLRB 1104 (1977).

<sup>5</sup> The transcripts inadvertently contain the word "fleet" instead of the correct word "slate."

<sup>6</sup> *Stoll Industries*, 223 NLRB 51 (1976).

rately because Gigliotti and Mattocks had engaged in activities aimed at having Metz replaced as business manager of Respondent. Had it not done so, Gigliotti likely would have remained on the diesel-pump assignment until May 1983.<sup>7</sup>

#### CONCLUSIONS OF LAW

1. Respondent is a labor organization within the meaning of Section 2(5) of the Act.
2. S & W is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.
3. By causing S & W to remove Gigliotti as operator of the backup diesel pump without sufficient reason and separately because of Gigliotti's activities in opposing the reelection of Respondent's business manager, Respondent has violated Section 8(b)(2) of the Act.
4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

#### THE REMEDY

Having found that Respondent has engaged in unfair labor practices in violation of Section 8(b)(2) of the Act, I shall recommend that Respondent be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

Respondent shall notify S & W in writing that it has no objection to any job assignments it may make to Gigliotti and similarly notify Gigliotti that it has so notified S & W. I shall also recommend that Respondent make Gigliotti whole for any loss of earnings suffered by him as a result of the discrimination against him. Loss of earnings shall be computed in the manner set forth in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), and *Florida Steel Corp.*, 231 NLRB 651 (1977).<sup>8</sup>

I shall also recommend that Respondent be ordered to expunge from its files any reference to Gigliotti's unlawful removal as pump operator for S & W, to notify him in writing of this and to inform him that his unlawful removal shall not be used as a basis for future action against him. Furthermore, I shall recommend that Respondent be required to ask S & W to remove from its files any reference to Gigliotti's unlawful removal and notify him that it has asked S & W to do so. See *R. H. Macy & Co.*, 266 NLRB 858 (1983).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>9</sup>

<sup>7</sup> The fact that S & W may have reduced its operating costs by transferring Gigliotti does not mitigate Respondent's unlawful act. For that matter S & W did correspondingly increase its exposure to flooding damage. In that regard, the record discloses that on two occasions before the diesel pump was installed as a standby, flooding of the coffer-dam caused considerable damage.

<sup>8</sup> See generally *Isis Plumbing Co.*, 138 NLRB 716 (1962).

#### ORDER

The Respondent, Operating Engineers Local 478, International Brotherhood of Operating Engineers, AFL-CIO, its officers, agents, and representatives, shall

##### 1. Cease and desist from

(a) Causing or attempting to cause Stone & Webster Engineering Corporation to discriminate against Ralph J. Gigliotti because he opposed the reelection of Respondent's business manager.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

##### 2. Take the following affirmative action designed to effectuate the policies of the Act.

(a) Make Ralph J. Gigliotti whole for any loss of pay he may have suffered as a result of the discrimination against him in the manner set forth in the section entitled "The Remedy."

(b) Notify S & W in writing, and furnish a copy of such notification to Ralph J. Gigliotti, that it has no objection to his employment in any job assignment.

(c) Expunge from its records any reference to the unlawful job removal of Ralph J. Gigliotti and request S & W in writing to do the same; notify Gigliotti, in writing, that these steps have been taken and that evidence of its unlawful act shall not be used as a basis for future action against him.

(d) Post at its business office, copies of the attached notice marked "Appendix."<sup>10</sup> Copies of the notice, on forms provided by the Office-in-Charge for Subregion 39, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Forward a sufficient number of signed copies of the notice to the Officer-in-Charge for Subregion 39 for posting by S & W at its place of business in places where notices to employees are customarily posted, if S & W is willing to do so.

(f) Notify the Officer-in-Charge for Subregion 39 in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

<sup>9</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

<sup>10</sup> If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

NOTICE TO MEMBERS  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT cause or attempt to cause Stone & Webster Engineering Corporation to discriminate against Ralph J. Gigliotti because he opposed the reelection of the incumbent business manager.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL make Ralph J. Gigliotti whole, with interest, for any loss of pay he may have suffered as a result of our discrimination against him.

WE WILL notify Stone & Webster Engineering Corporation, in writing, and furnish a copy of such notification to Ralph J. Gigliotti, that we have no objection to his employment in any capacity.

WE WILL expunge from our files any reference to the removal of Ralph J. Gigliotti as pump operator for Stone & Webster on August 31, 1982 and notify him in writing that this has been done and that evidence of this unlawful act shall not be used as a basis for future action against him, and WE WILL ask Stone & Webster to remove any reference to his unlawful job removal from its files and WE WILL notify him that we have asked Stone & Webster to do this.

OPERATING ENGINEERS LOCAL 478,  
INTERNATIONAL UNION OF OPERATING  
ENGINEERS, AFL-CIO